

then such franchised corporation shall be treated as an excluded member of such group, under subsection (b)(2), for such taxable year.

**(5) Brother-sister controlled group definition for provisions other than this part**

**(A) In general**

Except as specifically provided in an applicable provision, subsection (a)(2) shall be applied to an applicable provision as if it read as follows:

**“(2) Brother-sister controlled group**

“Two or more corporations if 5 or fewer persons who are individuals, estates, or trusts own (within the meaning of subsection (d)(2) stock possessing—

“(A) at least 80 percent of the total combined voting power of all classes of stock entitled to vote, or at least 80 percent of the total value of shares of all classes of stock, of each corporation, and

“(B) more than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.”

**(B) Applicable provision**

For purposes of this paragraph, an applicable provision is any provision of law (other than this part) which incorporates the definition of controlled group of corporations under subsection (a).

(Added Pub. L. 88-272, title II, §235(a), Feb. 26, 1964, 78 Stat. 120; amended Pub. L. 91-172, title IV, §401(c), (d), Dec. 30, 1969, 83 Stat. 602; Pub. L. 91-373, title I, §102(b), Aug. 10, 1970, 84 Stat. 696; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98-369, div. A, title II, §211(b)(22), July 18, 1984, 98 Stat. 757; Pub. L. 99-514, title X, §1024(c)(17), Oct. 22, 1986, 100 Stat. 2408; Pub. L. 100-647, title I, §1018(s)(3)(A), Nov. 10, 1988, 102 Stat. 3587; Pub. L. 108-357, title VIII, §900(a), (b), Oct. 22, 2004, 118 Stat. 1650.)

**AMENDMENTS**

2004—Subsec. (a)(2). Pub. L. 108-357, §900(a), substituted “possessing” for “possessing—”, struck out “(B)” before “more than 50 percent of the total combined voting power”, and struck out subpar. (A) which read as follows: “at least 80 percent of the total combined voting power of all classes of stock entitled to vote or at least 80 percent of the total value of shares of all classes of the stock of each corporation, and”.

Subsec. (f)(5). Pub. L. 108-357, §900(b), added par. (5).

1988—Subsec. (d)(1)(B). Pub. L. 100-647 substituted “paragraphs (1), (2), and (3) of subsection (e)” for “subsection (e)(1)”.

1986—Subsec. (b)(2)(D). Pub. L. 99-514 struck out “or section 821” after “section 801”.

1984—Subsecs. (a)(4), (b)(2)(D). Pub. L. 98-369 substituted “section 801” for “section 802”.

1976—Subsecs. (b)(4), (f)(3)(B). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

1970—Subsec. (f)(1). Pub. L. 91-373 substituted “by paragraphs (1) and (2) of section 2131(d)” for “in section 3306(i)”.

1969—Subsec. (a)(2). Pub. L. 91-172, §401(c), redesignated existing provisions with minor changes as par. (A) and added par. (B).

Subsec. (c)(2)(A)(iv). Pub. L. 91-172, §401(d)(1), added cl. (iv).

Subsec. (c)(2)(B). Pub. L. 91-172, §401(d)(2), substituted “5 or fewer persons who are individuals, estates, or trusts (referred to in this subparagraph as ‘common owners’) own” for “a person who is an individual, estate, or trust (referred to in this paragraph as ‘common owner’) owns” and in cl. (ii), substituted “any of such common owners”, “any of the common owners” for “such common owner” and “the common owner”, respectively and added cl. (iii).

**EFFECTIVE DATE OF 2004 AMENDMENT**

Pub. L. 108-357, title VIII, §900(c), Oct. 22, 2004, 118 Stat. 1650, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after the date of the enactment of this Act [Oct. 22, 2004].”

**EFFECTIVE DATE OF 1988 AMENDMENT**

Section 1018(s)(3)(B) of Pub. L. 100-647 provided that: “The amendment made by subparagraph (A) [amending this section] shall apply to taxable years beginning after the date of the enactment of this Act [Nov. 10, 1988].”

**EFFECTIVE DATE OF 1986 AMENDMENT**

Amendment by Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 1024(e) of Pub. L. 99-514, set out as a note under section 831 of this title.

**EFFECTIVE DATE OF 1984 AMENDMENT**

Amendment by Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, see section 215 of Pub. L. 98-369, set out as an Effective Date note under section 801 of this title.

**EFFECTIVE DATE OF 1969 AMENDMENT**

Amendment by Pub. L. 91-172 applicable with respect to taxable years ending on or after Dec. 31, 1970, see section 401(h)(3) of Pub. L. 91-172, set out as a note under section 1561 of this title.

**EFFECTIVE DATE**

Section applicable with respect to taxable years ending after Dec. 31, 1963, see section 235(d) of Pub. L. 88-272, set out as an Effective Date of 1964 Amendment note under section 1551 of this title.

**[§ 1564. Repealed. Pub. L. 101-508, title XI, §11801(a)(38), Nov. 5, 1990, 104 Stat. 1388-521]**

Section, added Pub. L. 91-172, title IV, §401(b)(1), Dec. 30, 1969, 83 Stat. 600; amended Pub. L. 94-455, title XIX, §§1901(b)(1)(J)(vi), (21)(A)(ii), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1791, 1797, 1834, related to transitional rules in the case of certain controlled corporations.

**SAVINGS PROVISION**

For provisions that nothing in repeal by Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

**Subtitle B—Estate and Gift Taxes**

Chapter	Sec. <sup>1</sup>
11. Estate tax .....	2001
12. Gift tax .....	2501

<sup>1</sup> Section numbers editorially supplied.

14.	Special valuation rules .....	2701
15.	Gifts and bequests from expatriates .....	2801

#### AMENDMENTS

2008—Pub. L. 110-245, title III, §301(b)(2), June 17, 2008, 122 Stat. 1646, added item for chapter 15.  
 1990—Pub. L. 101-508, title XI, §11602(c), Nov. 5, 1990, 104 Stat. 1388-500, added item for chapter 14.  
 1986—Pub. L. 99-514, title XIV, §1431(b), Oct. 22, 1986, 100 Stat. 2729, struck out “certain” after “Tax on” in item for chapter 13.  
 1976—Pub. L. 94-455, title XX, §2006(b)(1), Oct. 4, 1976, 90 Stat. 1888, added item for chapter 13.

### CHAPTER 11—ESTATE TAX

Subchapter		Sec. <sup>1</sup>
A.	Estates of citizens or residents .....	2001
B.	Estates of nonresidents not citizens .....	2101
C.	Miscellaneous .....	2201

#### Subchapter A—Estates of Citizens or Residents

Part	
I.	Tax imposed.
II.	Credits against tax.
III.	Gross estate.
IV.	Taxable estate.

#### PART I—TAX IMPOSED

Sec.	
2001.	Imposition and rate of tax.
2002.	Liability for payment.

#### AMENDMENTS

1976—Pub. L. 94-455, title XX, §2001(c)(1)(N)(i), Oct. 4, 1976, 90 Stat. 1853, substituted “Imposition and rate of tax” for “Rate of tax” in item 2001.

### § 2001. Imposition and rate of tax

#### (a) Imposition

A tax is hereby imposed on the transfer of the taxable estate of every decedent who is a citizen or resident of the United States.

#### (b) Computation of tax

The tax imposed by this section shall be the amount equal to the excess (if any) of—

(1) a tentative tax computed under subsection (c) on the sum of—

(A) the amount of the taxable estate, and  
 (B) the amount of the adjusted taxable gifts, over

(2) the aggregate amount of tax which would have been payable under chapter 12 with respect to gifts made by the decedent after December 31, 1976, if the provisions of subsection (c) (as in effect at the decedent's death) had been applicable at the time of such gifts.

For purposes of paragraph (1)(B), the term “adjusted taxable gifts” means the total amount of the taxable gifts (within the meaning of section 2503) made by the decedent after December 31, 1976, other than gifts which are includible in the gross estate of the decedent.

#### (c) Rate schedule

##### (1) In general

If the amount with respect to which the tentative tax to be computed is:	The tentative tax is:
Not over \$10,000 .....	18 percent of such amount.

#### If the amount with respect to which the tentative tax to be computed is:

Over \$10,000 but not over \$20,000.	\$1,800, plus 20 percent of the excess of such amount over \$10,000.
Over \$20,000 but not over \$40,000.	\$3,800, plus 22 percent of the excess of such amount over \$20,000.
Over \$40,000 but not over \$60,000.	\$8,200 plus 24 percent of the excess of such amount over \$40,000.
Over \$60,000 but not over \$80,000.	\$13,000, plus 26 percent of the excess of such amount over \$60,000.
Over \$80,000 but not over \$100,000.	\$18,200, plus 28 percent of the excess of such amount over \$80,000.
Over \$100,000 but not over \$150,000.	\$23,800, plus 30 percent of the excess of such amount over \$100,000.
Over \$150,000 but not over \$250,000.	\$38,800, plus 32 percent of the excess of such amount over \$150,000.
Over \$250,000 but not over \$500,000.	\$70,800, plus 34 percent of the excess of such amount over \$250,000.
Over \$500,000 but not over \$750,000.	\$155,800, plus 37 percent of the excess of such amount over \$500,000.
Over \$750,000 but not over \$1,000,000.	\$248,300, plus 39 percent of the excess of such amount over \$750,000.
Over \$1,000,000 but not over \$1,250,000.	\$345,800, plus 41 percent of the excess of such amount over \$1,000,000.
Over \$1,250,000 but not over \$1,500,000.	\$448,300, plus 43 percent of the excess of such amount over \$1,250,000.
Over \$1,500,000 but not over \$2,000,000.	\$555,800, plus 45 percent of the excess of such amount over \$1,500,000.
Over \$2,000,000 but not over \$2,500,000.	\$780,800, plus 49 percent of the excess of such amount over \$2,000,000.
Over \$2,500,000 .....	\$1,025,800, plus 50% of the excess over \$2,500,000.

#### (2) Phasedown of maximum rate of tax

##### (A) In general

In the case of estates of decedents dying, and gifts made, in calendar years after 2002 and before 2010, the tentative tax under this subsection shall be determined by using a table prescribed by the Secretary (in lieu of using the table contained in paragraph (1)) which is the same as such table; except that—

(i) the maximum rate of tax for any calendar year shall be determined in the table under subparagraph (B), and

(ii) the brackets and the amounts setting forth the tax shall be adjusted to the extent necessary to reflect the adjustments under subparagraph (A).

##### (B) Maximum rate

In calendar year:	The maximum rate is:
2003 .....	49 percent
2004 .....	48 percent
2005 .....	47 percent
2006 .....	46 percent
2007, 2008, and 2009 .....	45 percent.

#### (d) Adjustment for gift tax paid by spouse

For purposes of subsection (b)(2), if—

<sup>1</sup> Section numbers editorially supplied.